

Department of Energy

§ 609.9

DOE will notify the Applicant and Eligible Lender or other Holder in writing and provide them with a Term Sheet. If DOE reviews an Application and decides not to proceed further with the issuance of a Term Sheet, DOE will inform the Applicant in writing of the reason(s) for denial.

§ 609.8 Term sheets and conditional commitments.

(a) DOE, after review and evaluation of the Application, additional information requested and received by DOE, potentially including a preliminary credit rating or credit assessment, and information obtained as the result of meeting with the Applicant and the Eligible Lender or other Holder, may offer to an Applicant and the Eligible Lender or other Holder detailed terms and conditions that must be met, including terms and conditions that must be met by the Applicant and the Eligible Lender or other Holder.

(b) The terms and conditions required by DOE will be expressed in a written Term Sheet signed by a Contracting Officer and addressed to the Applicant and the Eligible Lender or other Holder, where appropriate. The Term Sheet will request that the Project Sponsor and the Eligible Lender or other Holder express agreement with the terms and conditions contained in the Term Sheet by signing the Term Sheet in the designated place. Each person signing the Term Sheet must be a duly authorized official or officer of the Applicant and Eligible Lender or other Holder. The Term Sheet will include an expiration date on which the terms offered will expire unless the Contracting Officer agrees in writing to extend the expiration date.

(c) The Applicant and/or the Eligible Lender or other Holder may respond to the Term Sheet offer in writing or may request discussions or meetings on the terms and conditions contained in the Term Sheet, including requests for clarifications or revisions. When DOE, the Applicant, and the Eligible Lender or other Holder agree on all of the final terms and conditions and all parties sign the Term Sheet, the Term Sheet becomes a Conditional Commitment. When and if all of the terms and conditions specified in the Conditional Com-

mitment have been met, DOE and the Applicant may enter into a Loan Guarantee Agreement.

(d) DOE's obligations under each Conditional Commitment are conditional upon statutory authority having been provided in advance of the execution of the Loan Guarantee Agreement sufficient under FCRA and Title XVII for DOE to execute the Loan Guarantee Agreement, and either an appropriation has been made or a borrower has paid into the Treasury sufficient funds to cover the full Credit Subsidy Cost for the loan guarantee that is the subject of the Conditional Commitment.

(e) The Applicant is required to pay fees to DOE to cover the Administrative Cost of Issuing a Loan Guarantee for the period of the Term Sheet through the closing of the Loan Guarantee Agreement (Second Fee).

§ 609.9 Closing on the Loan Guarantee Agreement.

(a) Subsequent to entering into a Conditional Commitment with an Applicant, DOE, after consultation with the Applicant, will set a closing date for execution of a Loan Guarantee Agreement.

(b) By the closing date, the Applicant and the Eligible Lender or other Holder must have satisfied all of the detailed terms and conditions contained in the Conditional Commitment and other related documents and all other contractual, statutory, and regulatory requirements. If the Applicant and the Eligible Lender or other Holder has not satisfied all such terms and conditions by the closing date, the Secretary may, in his/her sole discretion, set a new closing date or terminate the Conditional Commitment.

(c) In order to enter into a Loan Guarantee Agreement at closing:

(1) DOE must have received authority in an appropriations act for the loan guarantee; and

(2) All other applicable statutory, regulatory, or other requirements must be fulfilled.

(d) Prior to, or on, the closing date, DOE will ensure that:

(1) Pursuant to section 1702(b) of the Act, DOE has received payment of the Credit Subsidy Cost of the loan guarantee, as defined in § 609.2 of this part